UNITED STATES DEPARTMENT OF AGRICULTURE

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

In the Matter of:	)
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AMENDING IMPORT RULES FOR	)
	)
CLEMENTINES FROM SPAIN:	)
	)
REGULATORY IMPACT ANALYSIS	)
	)
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Thursday,
August 22, 2002

University of Florida Experiment Station
Bon Hill Griffin Auditorium
Lake Alfred, Florida

The above captioned matter convened, pursuant to Notice at 10:00 a.m.

BEFORE:

MATTHEW RHOADS, Regulatory Analyst, APHIS

DR. PAUL GADH, Import Specialist,
Phytosanitary Issues Management, PPQ, APHIS

ED MILLER. Entemologist,
Risk Analysis Systems, PPD, APHIS

SPEAKERS:

MICHAEL STUART,
Florida Fruit & Vegetable Association

MICHAEL HUNT,
Brooks Tropicals

R. JAY TAYLOR,
Taylor & Fulton

JAMES CLARK MORGAN,
Morgan Farms

DAVE BACEK,
W. G. Roe & Sons, Inc.

RICHARD KINNEY,
Florida Citrus Packers

ANDY LaVIGNE,
Florida Citrus Mutual

CONNIE RIHERD,
Florida Department of Agriculture
& Consumer Services

PAT COCKRELL,
Florida Farm Bureau

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I N D E X OF S P E A K E R S

P R O C E E D I N G S

(Time Noted: 9:00 a.m.)

MR. RHOADS: Good morning, and welcome to the Animal and Plant Health Inspection Service's public hearing on its proposed rule regarding the importation of Clementines from Spain.

My name is Matt Rhoads and I'm a Regulatory Analyst for APHIS' Policy and Program Development Staff.

Today's hearing in Lake Alfred is the second of two hearings that we're holding regarding the proposed rule. The first was held in Oxnard, California on Tuesday, the 20th.

Notice of these public hearings was announced in the proposed rule, and copies of the proposed rule are available at the sign-up desk.

Electronic copies of the proposed rule and supporting documentation for the proposed rule can be found on our website, www.APHIS.USDA.Gov, and there's a link right on the front page for Clementines.

The purpose of today's hearing is to give interested persons an opportunity for the oral presentation of data, views, and arguments regarding the proposed rule.

Those persons that are testifying today will have the opportunity to ask questions about the proposed

rule. APHIS personnel will respond only to clarify provisions of the proposed rule. We view this hearing as an opportunity to take your comments, and not as a forum to debate the merits of the proposed rule.

At this hearing, any interested party may be present in person, or through an attorney, or other representatives. Persons who have registered either by e-mail or phone in advance of the hearing, or who have registered this morning in person will be given an opportunity to speak before unregistered persons.

After everyone's been heard, we'll conclude the hearing, so I would anticipate we'll probably be done before lunchtime.

As previously noted -- or all comments today are being recorded and will be transcribed. The Court Reporter for today's hearing is Edna Hollander of Executive Court Reporters.

A copy of the hearing transcript will be made available on the web probably in about two weeks or somewhere thereabouts.

If you'd like an official copy of the transcript, you can see Ms. Hollander and she can give you a form whereby you can order one, but we will be posting them on the web so you can print them out yourself.

There will also be a copy of the hearing transcript for the California hearing posted in a similar time frame, probably the middle of next week, or the following week.

At this point, I'd like to introduce my companions. Seated beside me is Dr. Paul Gadh, who is an Import Specialist for APHIS' Photosanitary Issues Management Staff.

Next to Dr. Gadh is Dr. Ed Miller, who is an Entemologist for APHIS' Policy and Program Development Staff.

Dr. Gadh will be giving a presentation that loosely describes the proposed rule, and Dr. Miller will be giving a presentation which gives you a little background on the risk management document that supports the proposed rule.

At this point, I'm going to turn the mike over to Dr. Gadh and let him give you his presentation.

DR. GADH: Good morning everyone. As Matt has indicated, my name is Paul Gadh, also referred to sometimes as Paul Gadh, Import Specialist, working with Phytosanitary Issues Team of USDA, APHIS, Plant Protection and Quarantine team.

(Dr. Gadh shows slides as he speaks.)

DR. GADH: I work out of Riverdale and this is my contact number there. Since this is meant to be a public hearing session, what I plan to do -- I'm not going to take a lot of you time.

What I'd like to do is give you a brief overview of the history or events that led to a suspension of the program of importing Clementines from Spain, what actions the USDA has taken since then, and what are the new or additional requirements that we are proposing in our rule to allow resumption of trade.

Before suspension, the conditions or requirements by which Clementines could be imported from Spain were that the fruit must be cold treated at thirty-two degree or above for ten days or more.

The other condition was fruit will be subject to port of entry inspections, and the inspections were basically to verify cold treatment documents, to take the above temperature at the arrival, and then do some spot checking, primarily to inspect on the pests other than fruit flies because cold treatment was considered to be adequate treatment for protection against the Fruitfly.

Over the years, since inception of the program, about twenty or so years since 1995, the program went very well other than very minor incidents, in which case either the treatment didn't make the treatment, or some

10escaped the treatment.

In which case the shipment will be retreated at the cold temperatures, or sometimes, you know, somebody reporting some suspicious larvae as live, but were found to be dead.

Other than those, there was hardly any major incident that would raise any alarm until November 20 and 27 of last year, when live Medfly larvae were intercepted in fruits imported from Spain, and purchased in North Carolina and Maryland.

APHIS, at that time, decided to suspend the shipment pending investigation of the cause for infestation and notified Spain on November 30 of our decision to suspend shipments.

In the following few days, investigation was conducted and it was determined that those two infestations actually belonged to the same vessel, GREEN MELOY, that had docked at Philadelphia about ten days ago, November 10th.

So considering this as an isolated case, APHIS decided to lift the suspension and let the importation come from Spain, and notified Spain on December 4 that they could resume their trade as of the next day, December 5.

But before this could happen, within hours there

was another live Medfly larvae intercepted in Louisiana by a Land Protection and Quarantine official, and this time this was not related to the same vessel. It was from another vessel, JAPAN SENATOR, that had come to Newark, New Jersey.

And APHIS considered this as a serious threat. It was not an isolated case as was originally thought. This was a problem much larger than thought before.

So APHIS notified Spain on December 5th of suspending import, for the importation until the program was reviewed, and the source of the problem was identified and properly addressed.

Subsequent to that, there were some additional Medfly finds by California Department of Food and Agriculture, and Plant Protection and Quarantine officials that -- for the extent of our stand.

The decision taken by APHIS did not go well with Spain or many importers who decided to go to Court on that, and you know, there's legal issues and -- but for APHIS there was no choice. We had to do what we had to do to protect our resources and markets outside.

But APHIS understood the importance of the problem, the importance of the program, and also the seriousness of the problem, and took no time to decide our future course of actions.

And those actions are that a working group was formed to review the entire program, and also staff and our communication want to stay closer among State regulatory officials and also among the trading partners a panel of experts was formed to evaluate the treatment efficacy.

Another group of scientists were formed to study risks and mitigations that Mr. Ed Miller will be talking about later, so I may not go into detail at this time.

A team of specialists was dispatched to visit Spain and evaluate field and export conditions there. They inspected also road, they inspected their trapping activities. Then they went to packing houses, looked at their operations. They also checked on their pre-shipment inspections.

The team, however, could not come up with the exact cause of the problem, but identified many key factors that they believe contributed to the problem. And those were based on the data they got from Spanish officials of their trapping activities there.

They figured out there was about average Fruitfly population, larval populations, which resulted from warmer weathers than normal in that year 2001, compared to previous year or before 2000.

The early season varieties were highly

susceptible to Fruitfly, exporting their high populations.

They perhaps had enough trapping activities, but the information from trapping was not being used to apply chemicals to cut down their populations, Fruitfly populations.

The inspections were focused on pests other than Fruitfly. They were not focused on the Fruitfly simply because they knew that this will be subjected to cold treatment and that cold treatment was meant to provide the safeguard. There was no fruit cutting for that reason.

The panel on cold treatment looked at research information, published information, other information available from domestic sources or international sources and they determined that perhaps that cold treatment, for whatever reason, was not providing adequate protection against the Fruitfly.

And they recommended extending the treatment by two days at all the temperatures. This was also supported by research done in New Zealand at the time, although it was suggested to conduct more research on the treatment to get enough data to provide Probit 9 values.

In their assessment, they figured out that research done prior to 1970 perhaps did not have all the

stages of insects studied, or in some cases do not have enough insects involved to get Probit 9 material.

But some of the research done, even after that, although it is coming with the same results, with a high number of insects, but they need to go back and do a lot more research to get that Probit 9 information.

APHIS then evaluated all the findings. Also the risk mitigation measures that were published in a document made available to the public for review and comments, which Ed Miller will be going over, and then they proposed, or came up with a proposal to allow importation of Clementines from Spain under certain conditions.

And those additional conditions are that Spain's government will institute a Medfly management program into the Fruitfly populations to less than 1.5 percent of fruits.

Now, this 1.5 percent population is only to lead it for further mitigations, which is cold treatment, and then inspections later. This is not meant to bring or ship fruit with that high population of Fruitflys.

Spain then imposed greater oversight on the growth conditions. We'll have growers register for farm inspections and fruit cuttings. And there was no fruit cutting before, as I mentioned, but now they will have to

do some biomedical sampling of the fruits 2100 found in orchards and do some cutting.

Traps will be placed at least six weeks prior to harvest, and trapping data will be used to trigger chemical sprays to bring the population down.

USDA will monitor all the information on trapping, bait applications, and Spain will be required to keep all these accurate for USDA to monitor before any shipment is authorized.

We'll have a full fledged pre-clearance program going on in Spain, funded by Spain, and that's to ensure proper sampling and fruit cutting done before shipment.

Boxes will be labeled to ensure traceability.

There will be photosanitary certification issued by Spain to accompany each shipment, stating that the fruit complied with all the conditions.

Cold treatment will be extended by two days, as I pointed out before. Now this cold treatment is just one component of the system component. It's not the only thing, as we used to require before, as a condition of entry.

And then Port of Entry inspections will be strengthened and also will include fruit cutting.

In conclusion, I don't have anything in conclusion, simply because we are here to listen to you

guys and then make our conclusions.

But in summary, I can tell you that APHIS thinks that will all these additional measures, and the extended cold treatment, the system should provide us the needed five percent security.

Thank you.

MR. RHOADS: Next, Dr. Ed Miller will give a short presentation on the risk management analysis, which supports the proposed rule.

MR. MILLER: It's Mr. Miller, not Doctor, but that's okay.

This presentation was put together by Ron Sequatra, the one that was the leading in doing the risk management document. So if I'm a little not familiar with every slide, that's the reason.

This slide presentation covers the risk mitigation document and gives some of the background of it.

The risk analysis process has several stages. The first stages is the process identification, process initiation hazard identification. In this case, the hazard identification was the finding of live Medfly larvae.

The risk assessment looks at the likelihood of establishment and the consequences of establishment. And

risk mitigation is the next step. In this case, we're using a -- instead of just using treatment, we're using a systems approach, that will ensure that the treatment is sufficient.

In the last component of the risk analysis, is risk documentation and communication, and that's part of the process we're doing right here.

The risk assessment model is composed of two major components. One of them is the probability of establishment. And the probability of establishment is given in the risk mitigation document.

And it also covers the consequence of establishment. And people in the State of Florida realize the consequences of establishment.

Permanent establishment is 1.5 billion a year to the U.S., and outbreak costs can run $40 million or $50 million. I'm not sure what the last outbreak in Florida cost, but I think it was in that area.

This is the process we do, looking at a risk analysis. Step one is the document, the initiating event.

In this Step two is looking at the weediness potential, which is outside of the scope of our assessment because we basically looked only at Medfly, although we did do a pest list to ensure that we weren't

overlooking any other pest.

And so forth until you look at the consequences and the likelihood. In this case, we applied the guidelines for the HACCP approach, which is a systematic way of looking at risk and looking at the mitigations needed to cover that risk, and it's compatible with the IPPC, you'll see shortly, guidelines.

But in here we identified the critical control points and basically, the critical control points -- well, I'm sorry, it's a slide further on. But this shows that the HACCP, in the commodity risk assessment, is this initials are compatible.

Next slide, please.

This shows the website of the APHIS. This is the Plant Protection and Quarantine website where you can look at the risk assessment, pest risk assessment guidelines. And from this website, you can also look at all the Clementines documentations.

The risk mitigation document evaluates the importation system as it existed previously and compared it to a proposed additional mitigations.

This just reviews the Medfly life cycles and history of eradication campaigns within Florida and in California.

The citrus industry is a multi billion dollar

industry, and Medfly puts that industry at hazard. This shows that Florida and California are States that are most at risk for citrus.

Now, citrus is only one of the hosts of Medfly and the distribution of citrus is there, but as the -- this is plums and prunes, and we know it attacks nectarines and 250 or more other hosts. So they are mostly at risk.

This is the ripening information on fruits in Florida. And there's two things, there's a host available any time of the year for Medfly to establish.

The other thing that is important is that if you are going to have a permanent establishment of Medfly, you need host all year round. And the two places that have that available is Florida and California.

What went wrong is the populations in the field was too high and the treatment efficiency of cold treatment is in question.

We are addressing our problem by a formal analysis of the possibilities. ARS is -- let's just skip that. That's just not -- I'm not sure what Ron is using that for.

There was a formal review in Spain after the incidence of finding larvae. This occurred in December, and the initial findings was the high population was

identified. This is PPQ site verification again.

This is a model of the risk assessment or risk mitigation components in trying to determine the risks of Medfly under a systems approach. Fairly complicated, but it gets simpler at the next slide.

And this is the pathway we took, starting with fruit to be exported, infested fruit in the field, flies per fruit, flies surviving cold treatment, the effectiveness of inspection at the port of entry, and the fruit going to a suitable habitat for establishment.

And these are some of the values that were assigned to each of these components.

Next.

In some of the results of the risk assessment that specified if the infestation rate is between zero and 1.5, and you have an effective treatment, that the percent of infested fruit after that would be very small. One in a million, I think that is.

This has brought up some subjects. If Spain tries to export fruit at this infestation level, 1.5, the program would fail. Ninety-five percent of the shipments would be rejected in Spain before treatment.

This is used to say if a shipment is at this infestation rate, an effective cold treatment will mitigate the risk.

The results of the risk mitigation document gives a -- shows a minimization of the probability that a mated pair arrives at an area where it would cause trouble.

The Spanish risk mitigations, how do we stay out of trouble? We need quality control. We need documentation and verification and transparency and communication, and research and methods development.

That's the end.

MR. RHOADS: Okay. At this time, we'll get ready to get down to what you all are here for, which is providing some testimony.

I'll ask that each speaker please state and spell your last name for the benefit of the Court Reporter.

In accordance with the proposed rule, with the notes in the proposed rule, if you have a written statement and you're reading from a written statement, and you have a copy of that, could you please give a copy to the Court Reporter for her benefit?

I'd like to also remind everyone that the comment period for the proposed rule will close on September 9th, so we will accept written comments sent either by Postal mail, and we have to receive them by September 9th, either by Postal mail or by e-mail.

The addresses are on the front page of the proposed rule, which is out in the lobby. So September 9th is the close of the comment period.

And at this time, we'll be ready to call the first speaker.

The first person we have is Mr. Michael Stuart from the Florida Fruit and Vegetable Association.

MR. STUART: Good morning. And I want to thank APHIS for taking the time and effort to come to Florida and conduct this hearing.

Obviously, this is a very, very important issue to all of Florida agriculture, the entire fruit and vegetable industry, so we do appreciate your coming down.

My name is Mike Stuart, S-t-u-a-r-t. I'm President of Florida Fruit and Vegetable Association.

FFVA is a grower-based organization representing producers of vegetables, citrus, tropical fruit, and many other agricultural crops. Many of these commodities are host to the Mediterranean Fruitfly.

Our members are justifiably concerned about the potential introduction of the Medfly and other harmful pests that can potentially impact the production and marketing of their crops.

Appearing with me today will be two of those producers who will share their concerns about invasive

pests and, in particular, their concerns about the prospects and implications of future infestations in the State. And they'll immediately follow me here this morning.

The State of Florida is well recognized as a sentinel State when it comes to invasive pests. Its strategic geographic location as a gateway from the Caribbean and Latin america to the continental United States, puts Florida at high risk for the introduction of numerous invasive species, including the Medfly.

The cost of invasive pest introduction is very high to Federal and State taxpayers, and to the agricultural industry.

Since 1980, there have been numerous Medfly infestations in the State that have required major eradication programs. Two of the most recent, in 1998 and 1998, were among the most expensive in the State's history, both in terms of eradication cost and the impact on our agricultural industry.

But perhaps even more significant than the financial impact are the public relations implications of these infestations.

Significant portions of both the 1997 and 1998 Medfly eradication campaigns were waged in highly urbanized areas of Florida. The large populations of

Medflies in these areas necessitated the aerial application of Malathion bait.

Despite extensive efforts by the Florida Department of Agriculture and industry organizations to communicate the eradication effort to residents in the affected areas, significant public backlash was targeted at State and Federal officials, as well as the agricultural industry.

And while efforts have been made in recent years to create greater understanding among the urban population of the importance of ridding the State of invasive pests and diseases, our experiences with the Medfly and citrus canker over the past five years clearly demonstrates the extreme difficulty of conducting massive eradication programs in highly urbanized areas of Florida.

It is highly likely that future large-scale programs of this kind will face even greater public scrutiny where politics, not science drives public policy. The consequences for fruit and vegetable growers in the State will be devastating.

That is why FFVA and many other grower organizations in Florida and other fruit and vegetable producing States have strongly advocated significant enhancements in APHIS' pest detection and interdiction

programs in recent years.

That's also why FFVA strongly supported the actions taken by APHIS in late 2001, following the discovery of live Medfly larvae in several shipments of Spanish Clementines.

The large number of larvae found in the shipments made it apparent that a significant breakdown occurred in the Spanish program.

In its proposed rule, APHIS would permit the resumption of Spanish Clementine shipments to the United States under certain conditions and restrictions.

Two critical control points have been identified. One, the limitation of the Medfly population in Clementine production areas. And two, cold treatment.

The first critical control point depends heavily upon effective implementation of the Spanish government's Mediterranean Fruitfly Management Program to reduce the presence of the pest in production levels or production areas to levels that are conducive to successful treatment of the fruit.

It appears that Spanish growers would be responsible for monitoring and servicing the traps. We believe it is essential that the traps be monitored by Spanish government officials and not by the industry or other designees.

Placing this key responsibility in the hands of the regulated industry raises serious questions about the overall credibility and effectiveness of the program.

The second critical control point deals with cold treatment of the commodity. The proposed rule calls for modification of the protocol used on previous shipments.

Based on the recommendations of a panel comprised of USDA regulatory and technical personnel, the proposed rule would increase by two the number of days required for cold treatment at each temperature.

We are aware of no research that substantiates whether or not the additional two days on the schedule will achieve Probit 9 level of quarantine security required under the new rule.

Furthermore, the proposed rule states that APHIS is sponsoring additional research on the application of cold treatments for imported fruits and vegetables.

Given the critical importance of cold treatment to the overall success of the revised Clementine program, we believe it is absolutely essential that the rule should be delayed until the results of the new research have been published and reviewed.

The Medfly is host to more than 260 fruits, flowers, vegetables and nuts. The Department's original

regulatory action, following the interception of live larvae prescribed that Spanish Clementines could only be sold in northern U.S. States, where Medfly host material was not prevalent at that time of year.

Yet the proposed rule only includes citrus producing States in a limited distribution plan under the first year of the new program. We believe this is insufficient.

At a minimum, the States identified in the original notice, which included Alabama, Arizona, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, North Carolina, Nevada, New Mexico, Oklahoma, Oregon, Puerto Rico, South Carolina, Tennessee, Texas, and Washington, should be included in any limited distribution plan, once shipments are permitted to resume.

In advance of rulemaking, APHIS published a risk mitigation analysis that outlined measures to prevent the introduction of the Medfly in Spanish citrus imports. It is the foundation upon which the entire Spanish Clementine program is built.

An independent evaluation of APHIS' document has raised several questions, however, that we feel must be satisfactorily addressed before the Agency moves forward. We will be submitting more detailed information about

these issues in our written comments.

We also understand that the Department has been under significant pressure to expedite the development of this rule, and the accompanying work plan.

However, we must stress the importance of ensuring that science is the sole factor in determining whether the importation of Spanish Clementines should resume.

It is obvious that a serious breakdown of the program occurred last year. APHIS must ensure that the risk mitigation measures proposed in this rule are proved to be effective in preventing the introduction of the Medfly.

How do we know it will work, as was asked up in the slide earlier? Well, the fact of the matter is, we don't know it will work until it's been proved.

Therefore, we urge APHIS to delay a resumption of shipments until:

One, an aggressive, comprehensive and consistent trapping program fully operated, monitored, and documented by Spanish government officials has been in place through a full shipping season.

And second, the research on the application of cold treatments for imported fruits and vegetables has been published and viewed.

Once these have been met, we strongly recommend that APHIS conduct an import pilot program, limited to northern tier States for a minimum of one season.

Again, we appreciate the opportunity to comment on this proposed rule. We also applaud USDA and APHIS for its efforts to create transparency in the process of developing this proposal, which we believe is essential to creating an environment of credibility and trust between the Agency and the impacted industry.

Thank you very much.

MR. RHOADS: Thank you.

(Applause.)

MR. RHOADS: Our next registered speaker is Mr. Michael Hunt of Brooks Tropicals.

MR. HUNT: Good morning. My name is Michael Hunt, H-u-n-t. I'm with Brooks Tropicals. I'm Vice President of Agricultural Operations actually. We're located in Homestead, Florida.

Today Brooks Tropicals is the largest tropical fruit grower in the State of Florida, or in the Continental United States, as far as that goes.

Every crop that we grow is quarantinable to Medfly. That's a very serious consideration for us.

We are currently operating the little bit of citrus we have left, it's Persian Lime, under a Federal

quarantine that will not allow us to sell that fruit into citrus producing States, or within the State of Florida, not in the quarantine area.

What that has done to us, is that has cost us thirty percent of our business, and essentially has put us out of business. That's a very serious thing for us. We don't take this lightly, we don't think anyone should. Citrus is only one aspect of this.

When you stop to consider the cost to date of the citrus canker eradication in the State of Florida, that is due to citrus only, that is not any of the other 260 or some odd crops that are susceptible to Medfly.

Quite frankly, we do not believe the American public in general or politically, will ever eradicate Medfly again. That's our firm belief within our firm.

When I sat the other night and told my two teenage sons that I was coming here to address this matter today, they wanted a little more information. When I tried to explain to them, you know, what has been done, why we're revisiting this, they both looked at me and said, are they crazy?

Now, I don't know who they meant, are they crazy, whether they meant APHIS for resubmitting the proposal, or Spanish Clementine growers for wanting to continue to ship the fruit here. Somebody's crazy

according to them.

I wouldn't choose to use those words, but I would tell you all that if I were king, you'd have to do a better job of proving to me that I'm not going to end up being infested with the Medfly before this would happen again.

For me to accept this, you're going to have to prove to me that you can manage populations in the field at an acceptable level. One and a half percent seems to be the number I see in all the documents thrown around.

That is a high level of infestation of any pest in the field. I don't care what crop you're growing. I don't think I could get away with that in my business.

The second thing is the cold treatment, if it is a cold treatment that will work, I cannot understand the -- what the finding was that the populations led to the overwhelming failure of the cold treatment process.

Either the cold treatment, over time, kills the Fruitfly larvae or it does not kill the Fruitfly larvae. I don't believe that there is strength in numbers in a situation like this.

What I truly question is whether that cold treatment is being monitored adequately. Being in the produce business, we know that you can put a load of fruit in a refrigerated container, send it to

destination, and the core of that fruit will never reach its target temperature.

This is something that has to be addressed if cold treatment is going to be successful in this. We can't accept that we have so many questions that are unanswered at this point.

We can't accept that we're willing to continue to work with growers that are not willing to improve their own situation in this. Their target should be eradication, not control.

And we can't accept that this can go forward without answering the questions we have today.

Thank you.

(Applause.)

MR. RHOADS: The next registered speaker is Jay Taylor of Taylor and Fulton.

MR. TAYLOR: My name's Jay Taylor. I'm President of Taylor and Fulton. That's T-a-y-l-o-r.

We're in the tomato business in the West Coast of Florida. I was one of the unfortunate few to be located in the last quarantine area in 1998.

It came several days before our spring harvest began, which was about seventy-five percent of our business in a year.

Our farms were not impacted, thank goodness, but

our packing house was, ours and four others. We had to bring fruit in from the -- outside the quarantine zone into the quarantine zone, and then ship it back out.

To this day, I know that there is an analyst at Home Depot, in the corporate headquarters, sitting before a chart, scratching his head and saying, I still can't figure out where all that fiberglass screen went.

Well, we know. There are five packing houses in Manatee County in Florida that bought all there was in Florida. It was a very expensive proposition for us. It hit us directly in our pocketbook.

Not only did we have to prepare our facilities to be able to ship outside of the quarantine zone, but we had to dispose of our cold tomatoes at a public dump, paying by the pound. Right?

My bill at the Manatee County dump was over $65,000. It's over a quarter of a million dollars between the five packing houses that were impacted. That was after a hefty discount from the County.

The cost of that quarantine, the cost of that eradication program goes far beyond any monetary value. The cost in our relationship, the agricultural relationship with the increasing urbanized community of Florida, was severely damaged during that incident.

I had to attend meetings around town at the

behest of the Commissioner of Agriculture, where I had mothers bringing disabled, developmentally disabled children up to me and saying, this is what you're causing, you're spraying pesticides in here and you're causing these kind of birth defects. Right?

Now, you know, when we have the tremendous number of hosts in a sub-tropical climate in the United States, both in Southern California and in Florida, how important is it that we bring Clementine oranges in from Spain?

With the kind of infestations that you're talking about, any of us in agriculture here, probably couldn't stay in business living with those kinds of infestations. Right? You all recognize them as the norm in that growing area.

We are on a very short leash, especially here in Florida, as far as a future for agriculture. The only way that we are going to be able to continue to produce the winter bounty for the United States and Canada is by getting along and co-existing with increasingly urbanized community.

The only way we're going to be able to do that is to never have to attempt an eradication program again. It won't happen. It will end up in Court.

And by the time we end up in Court, before

there's a single decision made, our season will be over, and we'll be done.

Right now it costs around $7,000 an acre for tomatoes, to grow and harvest a crop of tomatoes in Florida.

In the Palmetto Ruskin area, that was the impacted area in '98, there's over 11,000 acres in the spring crop. So you're putting a tremendous amount of money at risk.

I appreciate everything that APHIS has done and I appreciate the opportunity for all of us to speak today. I just sincerely hope that you all realize that this is not something that we can continually battle. We're on a very short leash.

MR. RHOADS: Thank you.

(Applause.)

MR. RHOADS: The next registered speaker is James Clark Morgan from Morgan Farms.

MR. MORGAN: Good morning. It's Morgan, M-o-r-g-a-n.

My name is James Morgan, representing Morgan Farms from South of Lakeland, Florida on a piece of property that we homesteaded in 1885. I am a fifth generation farmer on our property, and proud of it.

Our family, in the past 117 years, has dealt

with freezes, droughts, hurricanes, economic depression and recessions.

Over the years, we've held the government at bay as it has tried to cut our property up with roads in the name of progress against our will. I'm fighting that battle right now with the City of Lakeland.

We have battled pestilence of all kinds, but this Mediterranean Fruitfly, in our opinion, is the biggest threat we've ever faced.

On our farm we commercially grow Muscadine grapes, Tanenashi and Fuju Japanese persimmons, blackberries, figs and we seasonally grow row crop vegetables.

Every one of these crops are threatened by the Medfly. We depend on these crops for our livelihood and I am concerned with this rule and its ability to protect my family's farm from a Medfly infestation.

I appreciate the quick action APHIS took this past December, after multiple Medfly larvae were found in the Spanish Clementines.

Moving the Clementines during that time line to Northern States, away from States with host plant populations and climates conducive with the growth of Medfly, was the correct action at the time.

In the recent past, as some of the other

speakers have touched on, 1997-1998 Metfly outbreak, Hillsborough and Manatee Counties had a very difficult time controlling the fly.

Bait sprays in the urban counties were perceived by the public as health risk, damaged their vehicles; paint, and was an outright public relations disaster on behalf of both the government and Agriculture.

I belong to the Springhead Baptist Church south of Plant City. My great, great grandfather donated the land, and the pines for the property. I spoke to our Church, because these were people that's been there all their lives, and they didn't understand why we were spraying.

And like this other gentleman said, I had to explain to them why airplanes were spraying. Once they understood that, hey, this could affect your squashbacks in the back yard, they said, okay, this makes sense. But go to Tampa and try and do this.

The vegetable and citrus growers in these areas lost a considerable amount of money on their crops in that area. After the September 11th tragedy, I do not think you could possibly apply aerial sprays to these areas again ever.

The release of sterile flies takes time for it to work through the life cycles, and do you think the

homeowners will allow you to enter and set traps in their yards? Just look at the citrus canker fiasco in our southern counties.

Under the proposed rule, the Spanish growers would trap and monitor their traps for medflies. Granted, APHIS reserves the right to inspect these growing areas to monitor compliance, but the same rule states:

"The government of Spain's Mediterranean Fruitfly management program is a new program that was designed to reduce the presence of medflies in areas that produce Clementines for export to the United States to levels that are conducive to successful treatment of the fruit."

Obviously, Spain has never implemented such a huge program in the past. How do we expect them to do this in such short order?

Dispensing traps, training personnel on the proper procedures for setting traps, mapping land in grids, reliable procedure for monitoring the traps, coordination of aerial applications, calibration of aerial equipment, compliance agreements prior to setting traps, weekly trap monitoring reports, protocol card placement in the field prior to fruit leaving the groves, are but a few of the procedures the Spanish government

will have to put into place in short order.

It is essential that the traps be monitored by the Spanish government officials, and not by the industry. The credibility of the program is otherwise suspect.

Gentlemen, this is the fox in the henhouse.

Under the proposed rule there will be pre-treatment sampling. This portion of the rule allows that APHIS inspectors will cut and inspect a designated number of fruit that are randomly selected from throughout the shipment.

The rule states that a shipment could include as little as one shipping container of Clementines, and I'm quoting this from the rule, approximately 166,000 fruit, or could be a bulk shipment of approximately 972,000 Clementines, a maximum of 120 pallets, with each pallet containing approximately 8,100 fruit.

The sample size is 200 randomly selected pieces of fruit. This is .0012 percent of the smallest shipment of fruit sampled, and is .0002 percent of the largest shipment, 120 pallets, sampled.

The is haphazard at best. We are doing a Medfly lottery. Inspecting and cutting a small random sample of fruit does not ensure the shipment is clean prior to cold treatment.

Concerning the additional cold treatment of two days, how do we know if it's enough time? Where's the research that substantiates whether or not the additional two days on the schedule will achieve Probit 9 level quarantine security under the new rule?

Would it not be prudent to wait for new studies on cold treatment on Spanish Medfly? What is the scientific basis for adding two days to the cold treatment? Is this an educated guess or based on scientific fact?

As Dr. Gadh pointed out in his presentation, we need current research to ensure Probit 9 is achieved.

Finally, the Medfly is the number one quarantine pest for concern for fruits and vegetables. It's host are numerous and would directly affect all States that produce fruits and vegetables, and I underline all States.

Some day in the future, part of my retirement will depend on the income from our family farm. I have a lot at stake here, and so does my family.

I ask you, Dr. Gadh, and you, Mr. Miller, you, Mr. Rhodes, as members of this panel, are you a grower? Do you have a direct take in this issue representing APHIS?

If not, are you confident enough in your

rulemaking to sign over your government retirement to all agriculture producers to help mitigate the damage to us in the event of a catastrophic failure?

That's what we have on the line. If the answer is no, then you should reevaluate your decision to proceed with this new rule now or ever.

Thank you.

(Applause.)

MR. RHOADS: Thank you.

Our next registered speaker is Dave Bacek.

MR. BACEK: Good morning. I appreciate the opportunity to present my statement. My name is Dave Bacek, and that's B-a-c-e-k. I'm from Winter Haven, Florida, and my company grows citrus.

I'm deeply concerned over the proposed rules by APHIS to resume imports of Spanish Clementines after a massive, and nearly disastrous breakdown of the protocol designed to protect our country from Medfly infestation.

I praise APHIS for its quick decisions last December after multiple live Medfly larvae were found. They immediately required all Clementines n the U.S. to be shipped to northern tier States, far removed from States with host plant populations, and climates conducive to Medfly inhabitation, as well as suspension of all further imports of the Spanish Clementines.

It's highly likely that this action, this quick action, prevented multiple Medfly infestations.

Since that time, APHIS has moved very aggressively to put together proposed guidelines and rules to allow Spanish Clementine imports to resume. I believe this proposed rule contains flaws and vagueness that is very disturbing.

As a result of the haste of its preparations, its primary foundation is not based on adequate scientific analysis. It, therefore, leaves nearly the entire fruit, vegetable, and nut industry in the United States in harm's way from potential infestation.

The Mediterranean Fruitfly is one of the world's worst pests, infesting over 260 different crops. Moreover, its damage to producers is not only the potential physical damage to the crops, but the loss of important markets, both domestic and overseas.

During Florida's 1997-98 Medfly infestation, West Florida tomato growers and shippers lost money not only from the crop infestations, but from embargoes put in place to prevent the spread of the devastating pest.

An infestation of Medfly in almost any State would likely cause similar losses in the millions of dollars.

Perhaps even more concerning is the rising

potential that eradication may become impossible. Spreading urbanization, limitations on chemicals, public opinion against aerial spraying, are just a few of the examples. The next Medfly infestation in the U.S. may end agriculture as we know it in the infested location.

The current proposed rule relies on two primary features. The first is control of the populations in Spain, in order to keep the infestation rates below 1.5 percent.

The second, cold treatment, which essentially is, as we've heard, extends the existing protocol by two days. I think there are inherent concerns with both of these features.

While controlling fly populations is possible, given current aerial spraying and trapping technologies, it's the practical issues that are the primary reason of the concern.

Being an agriculturalist, I'm familiar with what it takes to accomplish pest control in crops over a large area. It takes comprehensive planning, skilled application of the appropriate technologies, proper management, oversight of the important processes, strong motivation and a sense of urgency to proceed.

It's not going to be easy to do it. The current rule seems to provide for grower implementation of

tracking and spray activities. It's vague as to the degree and type of direct government oversight over this process.

This is of paramount concern, given that U.S. inspectors who visited Spain last season, found horrendous shortcomings in trapping methodologies, record keeping, the materials used for spraying, spray schedules, and numerous other areas.

To compound this issue is the fact that in numerous public forums, the Spaniards continue to display their total denial of the severity of the problem, as well as exhibiting an apparent lack of understanding of our concerns.

As we sit here today, it seems unrealistic to assume that this plan will succeed.

The cold treatment failures last fall have still not been adequately understood, and questions still linger. Was the system simply overwhelmed with populations that were too high to control?

Was there an undetected temperature failure? Was there tampering or some type of wrongdoing with the cold treatment documentation, to cover up known shortcomings in the process? Is the current time and temperature regimen no loner adequate to achieve Probit 9 mortality?

In the proposed rule, APHIS has made some educated guesstimates to these issues, and has arrived at a proposed solution of adding two days to the current schedule.

This is probably the best that can be done if the gal is simply to propose a rule within a short time frame. However, this should not be the goal. We should not be bound by the Spaniard's need to ship Clementines this fall, when the risk to our own agricultural industry is so great.

We can arrive at better decisions and invoke better solutions if we give ourselves and, more importantly, if we give our scientists adequate time to do so.

While we have made a guess at adequate protection and extended the schedule by two days, we could likely see failures again.

It has been documented that the live Medfly larvae found last fall in shipments were cold treated and maintained for periods of meeting the required time in the current temperature regimen, plus the proposed rule's two days extensions.

In other words, we've already document evidence that the new proposed rule for cold treatment, will not work given certain circumstances. This is clear evidence

that we do not scientifically know all we need to know to correct the problem.

Given the above considerations, it is not prudent to allow Spanish Clementines into the U.S. during the upcoming 2002-2003 season. This will provide all parties much needed time to study what went wrong, and to evaluate the Spaniard's success in controlling the fly populations.

For the 2003-2004 season, we should still continue to exercise due care. If there has been successful implementation of Medfly population control methods in the prior season, being 2002-2003, then we should begin allow Spanish Clementines into the same northern tier States that were designated last fall as being far removed from States with host plants and climates suitable for Medfly survival.

If there have been successful results for both of these years, and all information points to an acceptable risk, then imports can resume to all of the U.S. markets beginning the 2004-2005 season.

It's important to remember that the Medfly infestation in Florida during 1997 and '98, cost taxpayers over $50 million to eradicate.

Another outbreak in the U.S. could easily be much more expensive, before consideration of massive farm

losses, as a result of embargoes and crop damage.

American farmers depend upon APHIS to be adequately funded, in order to keep out exotic pests such as the Medfly.

If tens of millions of dollars in emergency funding is required for eradication of the Medfly -- of other possible Medfly infestation from Spanish Clementines, after the numerous concerned comments on this proposed rule that have been provided this week, it's going to result in negative political implications that may impact future budget allocations.

Additionally, members of Congress will certainly be asking the USDA some hard questions in order to ascertain how and why this rule was fast-tracked against the well reasoned concerned of their constituents.

Such consequences would be most disappointing, since the agricultural community of this country desperately needs a USDA that is politically effective and adequately funded.

I, therefore, urge in the strongest way that I can, that this rule be modified to delay importation of Spanish Clementines according to the above parameters.

Further, I urge that this proposed rule be further revised to include specific, clear, and concise fly population control procedures, as well as oversight

protocols, and incorporate new cold treatments based on further scientific analysis as it becomes available in the coming months.

Thank you for your time.

MR. RHOADS: We appreciate it.

(Applause.)

MR. RHOADS: Our next registered speaker is Mr. Richard Kinney from the Florida Citrus Packers.

MR. KINNEY: Richard Kinney, Florida Citrus Packers. K-i-n-n-e-y.

Good morning. We appreciate the opportunity to be here, and we thank APHIS for conducting a hearing in Lake Alfred.

Florida Citrus Packers is a non-profit trade association, representing the fresh citrus commercial packinghouses.

And our members ship approximately fifty-five to sixty million cartons of fresh grapefruit, oranges, and tangerines annually. And there's approximately a hundred commercial packinghouses in the State of Florida.

APHIS proposes to allow the reintroduction of Spanish Clementines into the United States under certain conditions. However, failure to secure fruit from Medfly infestation could be devastating to Florida's fresh citrus growers and shippers.

We estimate the potential loss of fifty percent of our annual volume if Medfly are established in Florida.

If I might digress here a little bit, I remember fifteen years ago going to a Fruitfly symposium in Guatemala in Central America. And they had conditions there, in some of those growing areas, because of Medfly, where every fifth piece of fruit, if I remember exactly what the Ag attache was telling me, had larvae in their fruit.

And while that fifty percent that I just mentioned was a conservative estimate, I can't imagine in Florida that we would have perhaps an even one in ten pieces of fruit larvae, maggots in the fruit.

I'm just completely convinced that the Medfly established in the State of Florida would put the fresh side of this business under the -- we just couldn't stay in business. So fifty percent is a conservative observation from my point of view.

While the fly's host range is extensive, it is a direct threat to citrus. And as a quarantine pest, it would present insurmountable problems. According, we are greatly concerned with the significance of last November's and December's quarantine failure.

Larvae were found in fruit in Maryland,

Louisiana, North Carolina, and five cases in California, with the total projected incidence numbers in the thousands.

And why such failure? I wrote why such failure, but why such a huge failure? I mean I've been in this business twenty-two years. One of the areas where I've tried to pay most attention, because of its significance, was in the quarantine pest and disease issues.

I'm not aware of a single incident, in my twenty-two years, where we've had this kind of a failure. This isn't just a failure, it is a catastrophic failure, a huge failure, the results of which we're not sure of yet.

There could be Medfly established somewhere in the United States as a result of this significant failure. Why was there such a failure? Was it high fly pressure, with unusually warm conditions, hearty flies able to withstand the cold treatment process?

We've read many observations and potential reasons, none of which are conclusive, proven, or otherwise documented. And again, if we've got such a huge failure, and that is documented, it seems to me it makes sense that we find the reason for that.

All we have now is speculation, observation, some experienced observation, and we really need to have

that documented so we can address it directly.

Yet that which is proposed, claims to have resolved the problem by an evaluation that identifies acceptable risk.

In the pest risk assessment and proposed rule, risk has been defined as acceptable at a maximum 1.5 percent infestation threshold, after which cold treatment would be applied, adding two day's more -- adding two days to the treatment.

We believe this projected high level of control is dependent on too many unknown factors. However, some factors that will influence fly control are, tree age and canopy density, reliability of sampling methods, particularly the efficiency of the trap lure, timing of the pesticide application, precision of insecticide application, and the effect of weather conditions on fruit maturity, spray application, and Medfly biology and ecology.

Supportive data on each of these factors should be carefully reviewed before proceeding with new importations from infested areas in Spain. Where data is lacking, new research should be encouraged to resolve any unknown that could alter this approach.

As well, we find it most unsettling that much which is proposed as mitigation measures is dependent on

the growers of Spain cooperating under a program administered by their government.

This new program has no history of reliability. There are too many unknown variables, circumstances, and quality assurance issues dependent on establishing a 1.5 percent infestation threshold rate.

While we have some comfort with the application of cold treatment to a verifiable level of infestation, we are most concerned with the efficacy on Medfly indigenous to spain and surrounding areas.

Heretofore, cold treatment and applicable regimens against various fruitflies was believed to be efficacious, reaching Probit 9, under most circumstances. However, cold treatment failed miserably this last November and December.

There is much speculation as to why it failed, but no conclusive evidence identifying the cause and providing a remedy. Instead, APHIS proposes an arbitrary addition of two days to the cold treatment requirement. That's unacceptable.

On a final note, we again emphasize our concern with the pest risk assessment proposed rule that relies too heavily on an unproven system yet to be implemented.

In fact, this proposed rule is bold, is bold, presupposing application of requirement by participants,

who were astounded by APHIS' reaction to live larvae in their fruit, proclaiming the action to be a trade barrier, passing an EU resolution denouncing U.S. action, and hiring a lawyer to seek any and all redress.

And those are the folks that are going to implement this.

Given the serious nature of this issue, and the uncertainty of biological systems and human nature, a more prudent course of action should include a delay of implementation until verification of full application of all mitigation measures, as well as efficacy of cold treatment, as proposed, on Spanish Medfly larvae.

Florida Citrus Packers appreciates the opportunity to offer comments on this proposed rule.

MR. RHOADS: Thank you.

(Applause.)

MR. RHOADS: Our next registered speaker is Andy LaVigne.

MR. LaVIGNE: Good morning. I am Andy LaVigne, L-a V-i-g-n-e, Florida Citrus Mutual, and I appreciate the opportunity to provide comment this morning, on behalf of Florida Citrus Mutual. I'm the Vice President and CEO.

Mutual is a grower cooperative trade association representing more than 11,000 citrus growers. And I've

prepared a statement for the record, and would like to summarize my comments today, as best as possible, any way.

But one of the things I'd like to start with, for the panel's purposes, is you will hear similar things to what we say today, and I'm sure what you heard in California.

The problem is, this industry has been through this far too many times. And last year's failure of the protocol almost put us in that position again. And we can no longer afford to have these events pop up.

And that's the concern of the industry, and that's why the industry has come together to ensure that as we move forward, these protocols are effective, not only for imports protecting us, but for the export opportunities that we also enjoy.

Given the extreme vulnerability of Florida's agriculture production to be adversely impacted by the importation of pest and diseases, Mutual appreciates APHIS' efforts to come to Florida to hear the industry's views.

This is an extremely serious matter for Mutual's grower members, and one we have been involved in since APHIS took action and stopped imports of Clementines from Spain last December, due to the Medfly's alarmingly high

larvae detections in the import shipments.

As a matter of record, the Florida citrus industry has a 9.1 billion dollar economic impact to this State, and employees nearly 90,000 people. In addition, growers produce citrus on 850,000 acres in roughly twenty-nine counties.

APHIS is well aware of the fact that Florida is a sentinel State, and growers have combatted the Mediterranean Fruitfly several times during the past twenty years, and are currently waging an extremely costly and potentially devastating battle with citrus canker.

The '97 Medfly outbreak cost the State roughly $50 million to eradicate. And as you heard this morning, it's not just citrus that had lost money out of their pocket. The tomato growers and several other fruit and vegetable producers across the State did as well.

But the problem, and part of the fallacy, Ed, I think in some of your comments is, folks are talking like we're going to be able to have an eradication program like we did back in '97.

We'll be lucky to get a plane off the ground, let alone apply Malathion, or some other pesticide. We'd be lucky to spray water out of a plane after what we got in Tampa.

And I sat in some of those hearings with Jay Taylor, when the folks got in his face about what he did for a living. It was truly embarrassing, not only for this industry, but for society in general.

And APHIS has to take that into consideration. We are not looking at -- once you guys pass the protocol, it's a completely different issue once we have to deal with eradication.

And we will not be able to do it the same way. We have seen what we're doing with canker right now is abominable. We are letting a Judge in South Florida run an eradication program, and a lot of folks are throwing up their hands and saying, we have to live with canker.

And if that's the way that we're dealing with canker, I'm scared that that's the way we're going to deal with Medfly, because we're going to get a little heat the next time we had a Medfly infestation.

And we can't take -- while we're reasonably sure that this will do that, if we are not sure, we do not need to move forward on this effort.

And there is numbers that say roughly that the cost of a Medfly infestation becoming established would exceed $10 billion, and those numbers are coming from the State's Medfly program.

Because of previous experience with Medfly, our

growers are understandably concerned about the modification of the current protocol, to allow the importation of Clementines.

We can't afford, financially or politically, to fight another invasive pest disease battle at the same time. These eradication programs have also had extremely negative impacts, as I mentioned, on the public perception of Florida's agriculture community.

Mutual has supported continuously the import/export protocol proposals based on sound science that have come out of APHIS, and will continue to do so in the future.

This is because we realize that these protocols not only impact products imported into the U.S., but also our products that are exported throughout the world. On an even more important level, we support those proposals because we hope the science will prove to be the basis for preventing importation of any potentially damaging pest disease.

That's the basis for our comments here today, and will remain the basis of our involvement throughout the process. We have worked closely with other agriculture, university, State regulatory agencies, to review the proposed rule in order to provide sound scientific comments on the final document.

We commend APHIS for the quick action, as everyone has, that they took in December 2001 to stop the importation of Medfly infested Clementines in the face of extreme and, at times, outrageous political pressure.

Secretary Veneman, Florida Commissioner of Agriculture Charlie Bronson, and other State agricultural leaders across the country took the necessary action to ensure fruit that may contain live Medfly larvae were removed form the marketplace.

The magnitude of the problem became apparent during an APHIS review team's trip to Spain in early 2002. The review team was concerned with the overwhelming larval presence, quote, unquote, they discovered in Clementine producing areas, and cited that as the likely reason for the failure in the program.

The team reported that the trapping and bait spray activities, under industry control, lacked both consistency and direct oversight by the Spanish Agriculture Ministry.

Also, the team raised serious questions about the ability of the Spanish government officials to furnish data or documentation that substantiated the current trapping or bait spray programs.

As you all are well aware, the APHIS programs, in their interaction with the State Division of Plant

Industry, work very closely in documentation of our current interdiction programs, as well as trapping programs.

And they're extremely effective, and they're modeled throughout the world. And we hope as APHIS continues to develop this program, they use that as a model, because that's, in our analysis, the only way we can move forward.

APHIS' proposed rule, as we've all heard, emphasizes two critical control points fundamental to the successful reduction of risks associated with the importation of Clementines.

The suppression of Medfly populations in Clementine production areas is one, and a modification of the cold treatment requirements.

The foundation of the program is a trapping requirement beginning at least six weeks prior to harvest. The rule states, am I'm quoting, "This requirement would ensure that growers in spain are able to determine the extent of the presence of medflies in Clementine production areas..."

It is essential that the traps be monitored by Spanish government officials, and not by the industry and other designees. U.S. producers would not be allowed to monitor their own traps.

The second critical control point calls for a modification of the protocol used for previous shipments. This recommendation would increase by two the number of days required for cold treatment at each temperature.

The reason for the increase, according to the panel, is that the previous cold treatment schedule is insufficient for controlling high larval populations of medflies, and may result in Medfly survivors.

Given the critical importance of cold treatment to the process of the revised Clementine program, we believe implementation of the rule should be delayed until the results of the current ongoing researches APHIS has told us they were performing has been published and reviewed.

We also believe APHIS should immediately review other fruit and vegetable import protocols that rely on cold treatment, to assist the efficacy of those programs.

Given the Medfly is such a host to so many fruits across the Southeast of the Eastern Seaboard and through the West and Northwest, it is also essential that the protocol looks at more than just citrus. This is not just a citrus issue.

It's a fruit and vegetable issue. And the proposed protocol changes just take into consideration citrus producing States. We know all too well that we

cannot stop the back-haul of fruit from other areas.

And recently we had a violation of the agreement with Argentina where product was brought into the Northeast, relabeled and brought into Florida. And it was not allowed in Florida or any of the buffer States.

So we would recommend that at the minimum, as was mentioned before by Mike Stuart, that States identified in the original notice, all of the buffer States in the area, should be included in any limited distribution plan once shipments are permitted to resume.

There must be a trapping mechanism here so that product is not back-hauled into the State.

Florida is considered a sentinel State for invasive pest and disease detection, due to its strategic geographic location to Central and south America, through the Port of Miami, through the Port of Everglades, through the Port of Tampa.

The tourism and cargo imports have increased dramatically over the last ten years. In a recent report by the Florida Pest Exclusion Advisory Committee, indicated that the number of tourists entering Florida in the last ten years has increased twenty percent, and the numbers are rapidly approaching fifty million people annually.

In addition, perishable cargo nearly tripled to

more than six million tons. Miami has become the number one cargo airport in the world, most of that coming from Central and South America, and many Asian countries.

Regardless of the increased movement of both people and cargo, Federal and State resources have not kept pace and are, therefore, struggling to properly monitor the movement, according to several studies.

We know, in interacting with the State Division of Plant and Industry, and interacting with APHIS, that the resources aren't there. We're lucky if it's two percent that's inspected.

We are working very closely, as an industry, to try and provide those resources, but unfortunately, as we saw in this Medfly find, consumers essentially had to find it and bring it back to the store.

That's unacceptable, because at that point we're trying to figure out how much more is out there in the field. And when it becomes that catastrophic, you get into a situation where folks start talking about living with it, instead of eradicating it.

We understand the Department has been under significant pressure to expedite the development of this rule, and the accompanying work plan.

However, we must stress the importance of ensuring that science is the sole factor in determining

whether the importation of Spanish Clementines should resume.

Growers in Florida and other Medfly host producing States are extremely concerned about the potential impact of future infestations on their commodities and markets.

It's obvious that a serious breakdown of the Spanish Clementine program occurred last year. And it's critical that APHIS ensure that the risk mitigation measures proposed in this rule are effective in preventing the introduction of the Medfly.

We urge, as others did, APHIS to delay implementation of this rule until the following:

An aggressive trapping program fully nonitored and serviced by the Spanish government has been in place through a full season, with the required documentation.

And two, the research on the application of cold treatment for imported fruits and vegetables have been published nd reviewed.

Once these have been met, we strongly recommend that APHIs conduct an import pilot program, limited to northern tier States for a minimum of one season.

Looking at this and what we've dealt with through the various Medfly infestations over the last seven to ten years, as well as the canker program we are

in now, it is imperative that APHIS realizes that it's much better to develop a protocol that has a ninety-nine point nine percent assurance that it will be successful, because interdiction in the front end is much cheaper than it is for eradication.

And we have got to realize that in the future, because we cannot continue to spend the resources financially and politically to be successful on this.

And we cannot continue to have the comments that we've had by our legislators, by the media, and by the public, who don't understand agriculture, that says, well, you've got to live with it, because if we live with it, this industry is gone.

Again, I appreciate the opportunity to comment on this proposed rule. Florida Citrus Mutual will stay active with the other groups throughout the country, throughout Florida, in assisting APHIS in this effort, but we must insist that it is based on sound science, and it proves successful.

Thank you.

(Applause.)

MR. RHOADS: Thank you.

Our next registered speaker is Connie Riherd.

Did I say that right, Connie Riherd?

MS. RIHERD: Riherd. Close enough.

Good morning. My name is Connie Riherd. I'm the Assistant Director for the Division of Plant Industry with the Florida Department of Agriculture and Consumer Services.

I, too, want to thank the USDA for holding the public hearing on Medfly here, so that we could have some input from a Florida perspective.

I also was sitting here thinking that this is the first Medfly hearing that we've had here in recent memory, where we did not have to have armed law enforcement officers to protect us. At least I don't think there are any here. That's a nice feeling.

Commission of Agriculture Charles Bronson submitted written comments on the proposed rule on August the 12th. I won't go over those in detail, I'll just hit some of our key concerns.

The industry speakers here have been very eloquent in describing the impact that Medfly would have on their industry. Should it become established here, I would just say that the crops that would be harmed by Medfly bring over $10 billion to Florida's economy each year.

Over the past five years, including '97 and '98, Medfly eradication programs, Florida's agricultural industry, the State, and the Federal government, have

spent over $500 million, just over the past five years on dealing with new pest outbreaks.

Some of that involved eradication programs, some of that involved the cost of dealing with those pests on a permanent basis, because we weren't able to eradicate them.

I represented the National Plant Board on the USDA-APHIS review team that went to Spain in mid December to review the program.

The Spanish officials were very professional, they were very concerned about what had happened, but we had a Spanish industry official with us the entire time that was brutal.

He was verbally abusive, not only to the USDA officials, but also to the State Department officials. When we asked growers in the field, what do you think happened here, they said, oh, those weren't Medfly larvae in that fruit, those were vinegar flies, as if we couldn't identify Medfly larvae here.

This is just a hoax to keep Spanish Clementines out of the U.S. market. The one guy said, we ought to do anything possible to keep anything from Florida, or anything from the U.S. moving to Europe.

He went as far to say we should mine the Atlantic Ocean to keep you out of here. So if they had

that attitude, should we trust them to do the right thing in their proves to protect U.S. agriculture from Medfly infestations?

That would be a big mistake. A lot of people here have said that the growers should not be servicing those traps in their groves, and we absolutely agree with that.

Those traps should be serviced by the Spanish officials. That's how we do it in the U.S. The treatments should be closely monitored by the Spanish officials, and the USDA should closely monitor the entire process.

I also served on the cold treatment review team. And top ranking officials with the USDA told us, they said, please do not tell us that cold treatment does not work. We don't want to hear that.

Well, that was our conclusion, cold treatment didn't work. Certainly, they had high Medfly populations in Spain that contributed to that breakdown, but the cold treatment review team identified a number of areas of concern.

You know, were there areas within, you know, the ship's hold where the fruit wasn't being adequately treated? The temperatures may not be reaching the desired level. Maybe more probes are needed in those

holds.

We really need to take a very careful look at the entire process from the beginning to the end, to find out if it's as effective as we have all believed.

A lot of the research that supported cold treatment was done back in the 1930s, and nobody has done much on cold treatment since then, because everybody just assumed it worked. And, you know, in some cases it does work, but in this case it didn't work.

And we really need to address those issues, and not just add two days to all the treatment schedules as a stopgap measure. We're not opposed to adding the two days.

You know, that certainly may be needed, but you know, we really need to go back and look at all of the issues that the review team identified, and make sure that those are adequately addressed before we resume the importation of this product.

We, as well as the industry here, commend the USDA for taking the quick action that they did last fall to prohibit the entry of this fruit, and to move this fruit of the vulnerable markets.

That was quick action, and that was needed, but we ask that you not act hastily here to satisfy the Spanish citrus industry to the detriment of U.S.

agriculture.

As the process moves forward, we want to keep stakeholders involved. We want State scientists, both for the University, and Federal scientists with ARS, to be involved in the entire process.

And finally, what happened in Spain, I think in time that's going to be corrected. But we are receiving fruits and vegetables from all over the world, from Medfly infested countries, that are being shipped in here just with the cold treatment.

Now, they're also going to add two days to those cold treatments as well. But we may just be setting ourselves up for another Spanish Clementine fiasco. So we really need to address all of these other products that are moving into the U.S. under these same conditions.

That concludes my remarks. And again, thank you for listening to us.

MR. RHOADS: Thank you.

(Applause.)

MR. RHOADS: Our next registered speaker is Pat Cockrell, from the Florida Farm Bureau.

MR. COCKRELL: My name is Pat Cockrell, C-o-c-k-r-e-l-l. I'm Director of Agriculture Policy for Florida Farm Bureau.

And Florida Farm Bureau expresses our appreciation to USDA-APHIS for soliciting comment, and for setting this public meeting, to allow for comprehensive industry participation and comment on this proposed rule.

Florida Farm Bureau is a general farm organization that represents almost ninety percent of the farmers in Florida. Our organization's members represent every commercial crop being produced in Florida.

So you can readily see that the 250 plus crops that serve as hosts for Mediterranean Fruitfly place our members at risk.

The issues is much more than a citrus issue. And it's much greater than just an agricultural issue. If Medfly becomes established in Florida, it will be an issue to our sixteen million citizens and forty million visitors.

Quite possibly aerial application as a part of an eradication program is a thing of the past. Even the use of Malathion raises the ire of our citizens, and we're not sure that if an outbreak occurs, it will be cleared for use.

We learned a bitter lesson with our last two outbreaks. That lesson is that citizen outcry can stop an eradication program. More than ever we must depend on

exclusion and not on eradication.

Our organization has long been concerned about invasive pests such as Medfly. Florida has a long history of such pests being introduced with ensuing high cost eradication programs.

Both State and Federal dollars, along with a considerable grower investment, have funded these programs. Over the years, Florida truly has served as a sentinel State for foreign disease and pests.

Almost forty years ago, USDA-APHIS said that in their scientific opinion the eradication program for the Caribbean Fruitfly, Caribfly, should be terminated because it would never be an economic threat to citrus.

In hindsight, we should have eradicated the Caribfly, because the Caribfly will probably be the most costly pest for the fresh citrus industry in Florida today.

As we all make plans and design programs, the crystal ball we use shows how those plans should turn out. It only shows success and never failure. However, hindsight not only shows our success, but also our mistakes, just like the Caribfly.

We are concerned that the proposed rule looks good in the crystal ball, but will have severe problems in our hindsight. We're opposed to the adoption of this

rule.

We see several areas that have glaring errors in assumptions. One of the major assumptions is that a one and a half percent potential infestation is an acceptable risk. While we have little quarrel with this assumption, there are several points about it which we do have grave concerns.

Initially, we see no pre-clearance protocol. There is a trapping component, but it's not clear to us whether the regulated industry will be conducting the trapping program or the Spanish government will be responsible.

It is our desire that the Spanish government have responsibility. We also urge that the technical trapping protocol, type trap, baits, frequency of inspection, et cetera, mirror the same protocol that is used by USDA-APHIS within the United States.

There should be an incentive to encourage Spanish growers to keep Medfly populations in check, such as a previous season average of 1.5 percent infestation, or less, to ship to the united States.

Unfortunately, it appears that historical average is higher. In our view, such past experience shows the need for verifiable results.

If a particular grove or block of trees should

exceed the 1.5 percent infestation rate, a buffer should be placed around that grove or block. We are very fearful that this program and any mitigation are too late to offer us any protection for this season.

We urge that there be a requirement that mandates a year of data prior to shipping any fruit under this rule. That would give USDA-APHIS an opportunity to monitor and confirm that the protocols are being met.

Another assumption is that by extending cold treatment by two days, all larvae will be killed. We have not seen any research, studies, or reports that verify or confirm this.

In our view, cold treatment success is dependent not only on temperature and duration, but is also based on the rate of infestation.

We have been led to believe that the 2001 infestation was large, held late into the season, and possibly became acclimated to lower temperatures, or the population was so great that we had hot spots in the hold of the ship. These all are situations that exacerbated the situation.

And this is not an either/or situation. To have an effective exclusion program, Medfly populations must be kept low and the proper cold treatment protocol must be met.

With that in mind, we urge USDA-APHIS to conduct the necessary research on cold treatment and not approve this rule until such research is completed and the rule reflects the scientific findings.

We would like to see USDA-APHIS oversight of the program established in Spain. Not only should Spanish growers and the Spanish government be held accountable, we also believe that USDA-APHIS should be held accountable.

After all, post-Enron, if CEO's are to be held accountable for the financial statements of their companies, government employees should be also accountable for their decisions and programs.

Finally, one of our greatest frustrations has been the lack of the ability of USDA to track foreign products once they clear Customs. When USDA-APHIS restricts imported products to a specific region of the country, they're only fooling themselves.

With today's transportation system, it is as easy for a product to move to Los Angeles or Miami from New York, as it is to move to Philadelphia or Newark.

We continue to ask that a system be developed that will track imported products to the retailer. I'm confident that if the U.S. Postal Service can track mail, then certainly USDA-APHIS should be able to track imports.

Thank you for this opportunity to be here today. We appreciate it, and we look forward to working with you all further on this rule.

MR. RHOADS: Thank you.

(Applause.)

MR. RHOADS: I don't have any more registered speakers. Is there anyone present who would like to make a statement?

(No response.)

MR. RHOADS: Then if there are no more speakers -- Connie?

MS. RIHERD: Yeah. I would just say briefly, if nobody else wants to say anything, we had a lot of discussion here about the issue of the border States, and the fact that this is not just a citrus pest.

And that's true. And our Department also supports limiting any imports should they resume, not only from -- not only prohibit those from citrus producing States, but also prohibit those from bordering States as well.

And we've identified those in the written comments that Commissioner Bronson submitted. Georgia, of course -- everybody here knows they're known as the peach State, and peach is a good host.

And Alabama, I found out just this week that

they have some Satsuma production on the Gulf Coast. So those need to be taken into account as you move forward with the rule development.

Thank you.

MR. RHOADS: Sure.

MR. MORGAN: Mr. Rhoads, I have a question for you.

MR. RHOADS: Sure.

MR. MORGAN: The written comments that everyone has sent in, will those be published or --

MR. RHOADS: I'll tell you what. If you don't mind, just for the purposes of the record, do you mind going up to the podium?

MR. MORGAN: Oh.

MR. RHOADS: Just so the Court Reporter can keep it on the record.

MR. MORGAN: James Morgan again.

A question. The written comments that have been sent in by different people from the industry, will those be published also for review, or how will whoever does --

MR. RHOADS: No. Unfortunately, we're trying to develop -- we're in the process of developing a system where we will post all public comments on the web. Everything will be downloaded.

Unfortunately, we haven't quite gotten there

yet. If you're interested in receiving copies of comments, I can give you my card, and I'll see what I can do for you to, you know, either fax you some -- if you're interested in specific comments.

It might be a little problematic for us to give you copies of everything, because we do expect a great deal of comments on this issue. But I can certainly, you know, do -- we can do our best to find one way or another to get you some of the comments that are submitted.

We do publish a list on the web. I can give you the web address. I have to check to see where it is exactly. I think it's noted in the proposed rule that -- where we'll post a list of all the commentors, comments received, you know, and list them by name.

That is available on the web, but the comments themselves are not.

MR. MILLER: But the comments are available in D.C.

MR. RHOADS: Yeah. They are. Obviously, it probably doesn't do you a lot of good, but --

MR. MORGAN: Okay. I just wanted to make sure they're being cataloged and properly read and everything.

MR. RHOADS: Oh, yeah. They're made publicly available. Every comment that we receive is made publicly available. And we have a reading room in D.C.

that is visited often, especially by attorneys, making sure that we're keeping track of things.

MR. MORGAN: Thank you.

MR. RHOADS: Sure.

Are there any other questions?

(No response.)

MR. RHOADS: Okay. Then at this time, we'll conclude the hearing.

Thank you all for coming. And again, the close of the comment period is September 9th. We need to receive all comments by that date.

Thank you.

(Whereupon, at 10:42 a.m., the hearing in the above entitled matter was concluded.)

C E R T I F I C A T E

I hereby certify that this is the transcript of the proceedings held before the:

UNITED STATES DEPARTMENT OF AGRICULTURE

In the Matter of: PUBLIC HEARING ON AMENDING IMPORT RULES FOR CLEMENTINES FROM SPAIN

On: August 22, 2002

At: University of Florida Experiment Station, Bon Hill Griffin Auditorium, Lake Alfred, Florida

and that this is a full and correct transcription of these proceedings.

DATE: August 25, 2002 _____

EDNA HOLLANDER, Court Reporter
and Notary Public for the
State of Florida-at-Large